THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4600 of 2001

Dated:06.10.2007

Between:

Mudagani Muthaiah, S/o.Chandraiah.

…Petitioner

and

The Special Deputy Collector (LAO),
L.A.Unit, Sri Ram Sagar Project,
LMD Colony, Karimnagar,
and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4600 of 2001

ORDER:

The petitioner is an assignee of land admeasuring 3.31 guntas in Survey No.84/2 situated at Pachunur Village of Manakondur Mandal in Karimnagar District. According to the petitioner the land was acquired for construction of Sri Ram Sagar Project Branch Canal (3L of 4L/DBM-6 under Kakatiya Main Canal) under draft notification dated 06.08.1986, issued under Section 4(1) of the Land Acquisition Act, 1894 (the Act, for brevity), and declaration dated 06.08.1986 issued under Section 6 of the Act. Award No.53/88-89, dated 09.03.1989, was passed by the first respondent for an extent of Acs.10.14 guntas, but the petitioner was not paid any compensation. He moved the respondents, in vain, and filed the present Writ Petition.

Today, the application, being W.P.M.P.No.25908 of 2007, filed by the petitioner seeking expeditious disposal of the Writ Petition, has been listed. With the consent of the petitioner's Counsel and the learned Assistant Government Pleader, the matter itself is heard finally and is being disposed of.

The first respondent filed a counter affidavit. It is admitted that the land of the petitioner admeasuring Ac.3.31 guntas in Survey No.84

of Pachunur Village has been acquired and proposal for payment of ex gratia was sent to the second respondent on 02.11.1995. The first respondent also states that as and when funds are received, ex gratia amount shall be paid.

This Court has heard the learned Counsel for the petitioner and the learned Assistant Government Pleader. This aspect of the matter was considered in a Full Bench Decision of seven learned Judges of this Court in **LAO-cum-RDO, Chevella Division, Domalaguda, Hyd v Mekala Pandu**[1] and also another decision of this Court in **P.Mallaiah v Government of A.P.**[2]

I n **P.Mallaiah**'s case (supra) this Court relied on **Mekala Pandu**'s case (supra) and disposed of similar contentions in the following manner.

> Whether the Government is bound to pay compensation to the assignees under the provisions of the Act where such assigned lands are resumed by the Government for public purpose? A Full Bench of five learned Judges of this Court in **State of Andhra Pradesh v Bondapalli Sanyasi**[3] while overruling the earlier decision of Full Bench of three learned Judges in **State of A.P. v P.Peda Chinnayya**[4], held that when the land is resumed in terms of the grant, no compensation be payable towards resumption of land and that compensation, however, is payable if the lands have not been resumed by following due process of law. The Full Bench of seven learned Judges in **Mekala Pandu** case (supra) on reconsideration of the issue did not accept the view of the Full Bench of five learned Judges in **Bondapalli Sanyasi** case (supra) and held that assignees of Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession by the State in accordance with the terms of the grant. It was also held that the conditions incorporated in patta/deed of assignment shall not operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land… …
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> … … It is brought to the notice of this Court that State has filed Special Leave Petition before the Supreme Court against **Mekala Pandu** case (surpa). This Supreme Court has passed orders staying any further payment of compensation which only means that even if assigned lands are resumed, the State need not pay any compensation as per the provisions of the Act in view of the stay orders.

> Though the ratio in **Mekala Pandu** case (supra) applies to this case, having regard to the orders of the stay, the petitioner can enforce his right to claim compensation only when the view of this Court in **Mekala Pandu** case (supra) is upheld. It is also brought to the notice of this Court that in accordance with the orders of Government in G.O.Ms.No.1307, the market value at the rate of Rs.7,000/- per acre was paid to the petitioner (total amount of Rs.15,698/-), which includes 15% additional ex-gratia as per the Government Order. But, as per the decision in **Mekala Pandu** case (supra), the petitioner is entitled to claim compensation as per the provisions of the Land Acquisition Act, that is to say, solatium, additional compensation and interest. A Mandamus shall issue in the above terms. However, Mandamus shall be enforceable subject to Judgment of the Supreme Court in the appeal filed against **Mekala Pandu** case (supra).

It is brought to the notice of this Court by the learned Assistant Government Pleader that against the judgment of **Mekala Pandu**'s case (supra), the Government preferred Special Leave Petition and the Supreme Court granted *status quo* regarding payment of the compensation. However, the learned Assistant Government Pleader does not dispute that as per the ratio in **Mekala Pandu**'s case (supra), the petitioner is entitled to compensation as per the provisions of the Act.

Therefore, this Writ Petition is disposed of directing the respondents to pay the compensation on par with the compensation payable under the Act subject to the mandamus that may be issued by the Supreme Court in the appeals filed against the decision in **Mekala Pandu**'s case (supra). No costs.

(V.V.S.RAO, J)

06.10.2007
vs

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[1] 2004(2) ALD 451 (LB)

[2] 2006(3) ALD 148 = 2006(2) ALT 742

[3] 2002 (2) ALD 1 (LB) = 2002 (1) ALT 543D (LB)

[4] 1996 (2) ALD 1215 (FB) = 1997 (1) ALT 498 (FB)